

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21333 of 1994

Between:

Abdul Rehman Khan, S/o. Abdul Jaleel,
R/o. 5-8-162, Narupally, Hyderabad.

..... PETITIONER

AND

- 1 The Commissioner, Municipal Corporation of Hyderabad,
Office at Lower Tank Bund, Domalguda, Hyderabad.
- 2 The Chief Medical Officer of Health, M.C.H. (Licence Section)
Office at Lower Tank Bund, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records in file No. 1937/LS/09/94/1017 dated 28/10/994 from the office of the respondents and the impugned proceedings dated 28-10-1994 issued by the 2nd respondent may be declared as null and void and quash the same by issuing a writ, order, direction, particularly one in the nature of Writ of Certiorari and direct the 2nd respondent to issue licence to run the lodge after collecting licence fee from the date of no objection certificate issued by the Police Officials (Authorities), dated 05/10/1994 in the interest of justice.

For the Petitioner: MR.ALI FAROOQUE, Advocate.

For the Respondents: MR.RAMA RAO GANTA, SC for MCH

The Court made the following :

ORDER:

In this writ petition, the petitioner seeks to declare the proceedings of the second respondent-Chief Medical Officer of Health, dated 28-10-1994, levying licence fee of Rs.14,404/- for the years from 1991-92 to 1994-95 for running a lodge, as null and void.

It is alleged by the petitioner that he obtained first floor of the house bearing No.5-8-162 situated at Nampally, Hyderabad, on lease from the heirs of late Hajira Bhanu on a monthly rent of Rs.500/- for the purpose of running a lodge. It is stated that the petitioner has complied with all the requirements necessary to obtain licence for running a lodge and applied for licence on 26-3-1990. By proceedings dated 28-1-1991 the application was rejected by the second respondent. Aggrieved thereby, the petitioner filed W.P. No.2815 of 1991, wherein this Court by order dated 15-7-1991 directed the Commissioner of Police, Hyderabad to send his remarks in the matter expeditiously to the respondents herein, and also directed the respondents to consider the application of the petitioner for grant of licence expeditiously. It is submitted that the police authorities issued

‘no objection certificate’ on 5-10-1994. After taking into consideration the ‘no objection certificates’ issued by the Chief Medical Officer of Health (Licence Section), Municipal Corporation of Hyderabad, and the Police Authorities, the second respondent issued the impugned proceedings dated 28-10-1994 intimating the petitioner to remit a sum of Rs.14,404/- towards licence fees for the years 1991-92 to 1994-95. According to the petitioner, he has not started the said business from 1991-92 onwards, but started it only after obtaining the ‘no objection certificate’ from the police authorities on 05-10-1994. Questioning the impugned proceedings of the second respondent in levying licence fee from 1991-92 onwards, the present writ petition is filed.

Even though the present writ petition was admitted on 06-12-1994, no counter-affidavit has been filed by the respondents and no representation is made on their behalf. In the circumstances, it has to be presumed that the case put forth by the petitioner in this writ petition is true and the respondents have no reason to deny the relief.

Accordingly, the writ petition is allowed as prayed for. No costs.

N.V. RAMANA, J

Date: 22-7-2004

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the
Twenty Second day of July, Two thousand and Four.

To

- 1 The Commissioner, Municipal Corporation of Hyderabad,
Office at Lower Tank Bund, Domalguda, Hyderabad.
- 2 The Chief Medical Officer of Health, M.C.H. (Licence Section)
Office at Lower Tank Bund, Hyderabad.
- 3 Two CD copies.